

(1996) 07 PAT CK 0035
In the Patna High Court
Case No : Misc. Appeal No. 110 of 1992

The United India Insurance Co. Ltd.	Vs	APPELLANT
Md. Abdullah and Mrs. Sajda Khatoon		RESPONDENT

Date of Decision : 25-07-1996

Acts Referred:

Penal Code, 1860 (IPC) — Section 279, 304A, 337

Citation : (1996) 2 PLJR 839

Hon'ble Judges : S.N. Mishra, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

S.N. Mishra, J.—The United India Insurance Company Ltd. has filed this miscellaneous appeal against the judgment, and award, dated 13th March, 1992, passed by the Motor Vehicle Accident Claims Tribunal, Samastipur, whereby a sum of Rs. 75,000/- was allowed as compensation to the applicants. It is said that the Insurance Company has already paid a sum of Rs. 15,000/- and has been further directed to pay a sum of Rs. 50,000/- while the rest Rs. 10,000/- was directed to be paid by the owner of the Jeep bearing Registration No. BRI 7772.

2. The case of the applicants Respondents 1 and 2, who are father and mother of the victim is that they filed an application for grant of compensation of Rs. 1,00,000/- (Rupees one lakh) before the Motor Vehicles Accident Claims Tribunal on the ground that their son Neyaz Ahmad while travelling in a Jeep bearing Registration No. BRI 7772, which met with an accident on 15.6.87 because of rash and negligent driving, sustained fatal injuries and was admitted in the Hospital where he died within twenty-four hours, for which Musarigharari P.S. Case No. 29 of 1987 under Sections 279, 337 and 304A, I.P.C. was registered. The further case of the applicants is that the victim was aged 20 years on the date of accident and being a student of B.Sc., he was maintaining the family by working as a part-time teacher in Saraswati Coaching Institute, Dalsingsarai, for

which he was getting Rs. 400/- per month by way of salary besides he was earning Rs. 300/- per month from private tuition as well.

3. The owner and the Insurance Company filed their separate written-statements wherein the mode and manner of the death of the victim has not been denied. It has been alleged in the written-statement filed by the owner that since the vehicle, in question, was insured with the Insurance Company, the owner is not liable to pay the claim of compensation put forth by the applicants. The Insurance Company has also not denied the mode and manner of the accident of the vehicle, in question. However, the Insurance Company has alleged that in terms of the Insurance policy, the Insurance Company is liable to pay only a sum of Rs. 15,000/- for each of the victims. It is true that the tribunal has not accepted the total claim of the applicants and has awarded only a sum of Rs. 75,000/- out of the claim for rupees one lakh put forth by the applicants. Admittedly, in this case 7 passengers were killed and several other have sustained injuries. In such a situation, the submission of the learned Counsel for the Insurance Company that the liability of the Insurance Company is only to pay Rs. 15,000/- each passenger is totally misconceived. In this appeal the owners of the vehicle, in question, have not been made parties. In this connection, reference may be made to the order, dated 11.11.94 wherefrom it appears that at the instance of the Insurance Company, the names of the owners, namely, Respondent Nos. 2 and 4 were deleted, from the memo, of this appeal, as a result of which neither the notices were issued to the owners nor they have appeared, in support of their case.

4. After having heard learned Counsel for the Appellant and after having gone through the materials on record including the impugned judgment and award, I do not find any illegality in the same. Accordingly, this appeal is dismissed. The payment of compensation, if not already made, must be made to the applicants as early as possible preferably within six weeks from today, failing which the Insurance Company shall be liable to pay interest at the rate of 25 percent per annum.